

**CITY COUNCIL MINUTES**  
**February 27, 2006**  
**REGULAR SESSION**

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, February 27, 2006 at 6:00 p.m. with Mayor J. M. Holmes presiding and City Clerk Joseph G.R. Labrie recording the minutes.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

**Council Members Present:** Kevin Hanley, Keith Nesbitt, Bridgett Powers, Bob Snyder, J. M. Holmes

**Council Members Absent:** None

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Police Chief Valerie Harris, Fire Chief Mark D'Ambrogi, Fire Battalion Chief Bill Zander, Engineering Division Manager Bernie Schroeder, Finance Director Andy Heath, Airport Manager Jerry Martin.

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS**

Mayor Holmes advised council members that city pool cars are available to them when attending meetings and conducting any city business.

Mayor Holmes congratulated Council Member Hanley for the new temporary location of the Sierra Nevada Conservancy in Auburn.

**PRESENTATION TO THE COUNCIL:** Janna Iverson, Director of the Boys and Girls Club, presented the city a plaque and certificate of appreciation for its support of the Boys & Girls Club signed by George and Laura Bush. She also introduced speakers designated "Youth of the Year" from Rock Creek school who spoke to the council about the benefits of the Boys and Girls Club.

**PRESENTATION OF THE AMERICAN FLAG:** Acknowledge and accept the American Flag presented to the Auburn Fire Department.

Fire Chief Mark D'Ambrogi introduced the item with a short video presentation about the background of the Flag. Allen Young of the Gold Country Rotary in Auburn narrated stating that the flag was obtained after the devastation of hurricane Katrina.

Mr. Young went to Biloxi, Mississippi to provide service as an emergency manager. When the city was ordered to evacuate, the Biloxi Fire Department remained on duty to protect and serve those residents that did not heed the warnings to evacuate. Their sacrifices were immeasurable. Therefore, the Auburn Gold Country Rotary in conjunction with Biloxi Rotary club mounted a campaign to raise relief funds for the Biloxi Fire Department to assist with the recovery of the firefighters and their families by raffling the flag that was flying during the hurricane.

Fire Chief D'Ambrogi stated that on December 22, 2005 Mr. Allen Young gave his final presentation at the Gold Country Rotary meeting. He had set a personal goal of raising \$10,000 to be sent back to Biloxi, Mississippi that he had not yet achieved. After generous donations by those at the meeting, Mr. Young's goal was exceeded. The drawing was held and the winning ticket belonged to the Gold Country Rotary. The Gold Country Rotary then donated the flag to the Auburn Fire Department.

Chief D'Ambrogi asked the council for its approval for the Auburn Fire Department to accept the flag on behalf of the City Council to honor those in the fire service who have suffered such a loss to the disaster of Hurricane Katrina and to honor Mr. Allen Young, a citizen of Auburn, for his humanitarian efforts to help those in need and as a remembrance of the communities, such as Biloxi, as to just how devastating such a disaster can be. The flag will be displayed in City Hall. He then introduced Mr. Allen Young and his wife, Lindy Young.

Mr. Young thanked everyone involved and stated that we should all be very proud of our community. Many people and organizations stepped up to help. He stated that he was recently once again in Mississippi and we should not forget that help is still needed.

Mayor Holmes sincerely thanked Mr. Young for all he had done.

## **AGENDA APPROVAL**

No changes.

## **CONSENT CALENDAR**

1. **Warrants**

By **RESOLUTION 06-17** approve Warrants #61761 through 62062 totaling \$1,036,431.70.

2. **Council Minutes**

By **MOTION** approve City Council Minutes of December 12, 2005.

3. **Authorization of the Designation of Applicants Agent Resolution Form, OES Form 130**

By **RESOLUTION 06-18** authorize the Designation of Applicant's Agent Resolution form, OES Form 130.

4. **Claim for Actual Moving Expenses Business Operation, Business Property, Auburn Flying Service & Dennis Denham**

By **RESOLUTION 06-19** approve and authorize the City Manager to execute the Claim for Actual Moving Expenses Business Operation, Business Property, for Auburn Flying Service & Dennis Denham dated January 14, 2006

5. **Claim for Actual Moving Expenses Business Operation, Business Property, Auburn Flying Service & Dennis Denham**

By **RESOLUTION 06-20** approve and authorize the City Manager to execute the Claim for Actual Moving Expenses Business Operation, Aircraft, for Auburn Flying Service & Dennis Denham dated January 20, 2006,

6. **The Indian Hill Office Park**

By **RESOLUTION 06-21** approve the Indian Hill Office Park Final Map for recording.

7. **Appointment of Telecommunications Commissioner**

By **RESOLUTION 06-22** appoint Barry D. Stigers to the Telecommunications Commission.

\*\*\*\*\* End of Consent Agenda \*\*\*\*\*

**MOTION** to approve the consent agenda. **MOTION: Nesbitt/Snyder/ Approved 5:0**

8. **Public Comment**

Bryan Davies, Antelope, California, introduced himself as a representative for the medical marijuana movement. Mayor Holmes asked him to speak under Item 10, as the issue is an agenda item.

Nancy Rowland, 232 Orange Street, and husband Randy Rowland spoke in concern with the stormwater drainage problem that exists on Orange Street and Hale Street. They described flooding in the basement of their home that occurred on December 31, 2005 due to too much stormwater drainage. Mrs. Roland referenced a packet she had sent to all council members describing in detail the entire situation. Mr. Rowland described the incident in detail describing damage to both his home and the neighbor's home. They asked that the city fix the problem.

Mayor Holmes acknowledged receipt of their letter and pictures.

Dave Hughes, 165 Hale Street, stated that he was the downstream neighbor of the Rowlands. He elaborated on the stormwater drainage and his damages. He, too, asked the city to resolve the problem.

Holly Mills, 155 Hale Street, stated that she just found out that drainage has been an ongoing problem from 1987 to the current time. She outlined her specific situation and damages due to stormwater drainage.

Mayor Holmes assured the speakers that the city staff is looking at the situation to see what can be done to alleviate the situation.

Council Member Keith Nesbitt stated that he had the pleasure of spending some time with Loreley Hodkin, the city historian. He expressed his appreciation for all the volunteer hours she gives to the city and encouraged others to go see her.

Mayor Holmes added that Loreley is also involved in the planning for the centennial for the Auburn Chamber of Commerce. He stated she puts in a lot of time and should be thanked for all her efforts.

## **PUBLIC HEARINGS**

### **9. General Plan Amendment and Ordinance Amendment (Separated Sidewalks) Files GPA 05-1; OA 05-1**

Community Development Director Will Wong advised that staff is requesting a continuance until March 13, 2006.

By **MOTION** continue the public hearing to March 13, 2006. **MOTION: Hanley/Nesbitt/Approved by Voice**

10. **Ordinance to Amend the Auburn Municipal Code Regarding Medical Marijuana Dispensaries – 1<sup>st</sup> Reading**

Community Development Director Will Wong introduced the item. In June of 2004 regulations were established for dispensaries. Since that time action was initiated to repeal the ordinance. The Planning Commission held a public hearing on November 2, 2005. On January 17, 2006 the Planning Commission voted 3 to 2 recommending adoption of the proposed ordinance. He advised that the Police Department is in favor of the ordinance.

Mayor Holmes asked the Police Chief if any had applied to open a dispensary since the ordinance was in place. Chief Harris responded that she had not received a formal application.

City Attorney Michael Colantuono advised, "This is a zoning ordinance. This is not an ordinance regulating people's personal conduct. It simply says a particular use of land is not permitted in the city." He further stated, "We are not talking about criminal law tonight, we are not talking about whether people have the right to possess and use small amounts of marijuana consistent with Proposition 215."

Ryan Landers, Sacramento, California, advised that he helped to create Proposition 215 and get it qualified for the ballot. He was also on Attorney General Lockyer's task force for Senate Bill 420. He was also asked to be part of Sacramento County's task force for a dispensary ordinance. He reminded the council that, as the police chief stated, there have been no applications for a dispensary in Auburn. He asked that council members be leaders. He advised that many cities such as Hayward, Oakland, San Francisco and others up and down the state have dispensaries. He stated that what has been found is that a dispensary has actually lowered street crime because. "You don't send sick people to the streets." He said, "This is a compassion issue." He explained his personal situation; spoke of state law v. federal law, the need for medical marijuana and the land use issue. He asked the council not to "rush to judgment" on the issue. He explained that he is merely an advocate of the voters and offered the council members more detailed information if they would like it.

Bryan Davies, Antelope, California stated that the zoning ordinance the city has would cause the price of the medicine to be four or five times that of a street dealer. So, there would be no way to compete with the street dealers that already exist in Auburn. He advised that the people in the dispensary business are law-abiding and have the utmost respect for law enforcement.

Kenneth Donald Pettingil, Citrus Heights, California, advised that he is from the business community and would be very amenable to a state of the art facility in the City of Auburn.

Joseph Labrie, City Clerk of Auburn, advised that the issue was previously brought up at the Planning Commission so that the city could comply with the federal law. At that meeting he pointed out that the federal is not complying with the will of the people. He stated that the people want it for the people who need it, not to abuse it. He advised that if one was to grow his/her own marijuana for medicinal purpose, that entity would become a dispensary under the law. So, by not allowing one dispensary, the city could be creating several dispensaries. He also mentioned a recent Supreme Court unanimous ruling allowing a church to use hallucinogens in its service. So, theoretically a church branch could be initiated in Auburn allowing medical marijuana.

Lynette Davies, Antelope, California, expressed her support for a medical marijuana dispensary. She asked that ill people have access to medication.

Council Member Hanley stated that the various proponents raised some interesting issues relating to medical marijuana. He further stated that a debate on the federal level would be appropriate; "namely, Should the Federal Control Substances be changed, allowing states more leeway in this area?" He said that the proposed ordinance does not affect Proposition 215; a person who needs medical marijuana can still obtain it. He said his main concern was the business community in that the location of a dispensary next to a jewelry store, a restaurant or other entities in a business district will have a "deleterious effect." He further stated that there could be an unannounced raid by a drug enforcement agency in an attempt to enforce federal law. He opposed a dispensary being located in the City of Auburn.

Council Member Nesbitt stated that he listened to the people appealing to him to vote with his heart. He said that his wife has been going through cancer treatment for a few years and that he did not think that anyone who has seen the effects of chemotherapy could be against the compassionate use law. He further stated that it has been shown that it alleviates the side effects of chemotherapy among other things and that he firmly believes in the compassionate use law. He said that he had to vote against it in principle because he does not believe that the Federal Government has the right to undermine the California electorate.

Council Member Snyder stated that he would vote for the ordinance because his feelings are opposite to those of Council Member Nesbitt. Snyder stated that in his opinion "The discussion needs to be handled at

the federal level” and that he will respect those laws until they are changed.

Council Member Powers stated that she concurred with Council Member Snyder.

Police Chief Valerie Harris advised that she had contacted six local, different types of businesses to ask how they felt about having a dispensary next to them. All of the owners or managers advised that they would not support one opening next to them. Concerns were traffic and safety factors.

By **MOTION** approve the proposed ordinance, introduce and hold a first reading by title only, of an ordinance amending the Auburn Municipal code, which would repeal Ordinance No. 04-3, regarding medical marijuana dispensaries, thereby deleting the language added to the Auburn Municipal Code; and adding Section 159.019 Prohibited Uses, which would prohibit medical marijuana dispensaries or any other facility or use which involves the distribution of drugs or other substances which it is illegal to distribute or possess under state or federal law. **MOTION: Hanley/Snyder/Approved 4:1 (Nesbitt No)**

First reading by title only by City Attorney Michael Colantuono.

## **REPORTS**

### **11. Quarterly Reports from Committees and Commissions**

Telecommunications Commission Chair Glenn Tonkin reported to Council. He advised that a strong focus of the past quarter was to complete the Starstream upgrade. The state of communications in Auburn is an ongoing effort. The commission is also watchful of the legislation dealing with the telephone companies that want to get into the cable business. The selective palette of viewers picking their own channels is currently being debated with all the pros and cons being expressed.

Council questions and discussion followed.

### **12. Informational Reports for Staff**

Fire Chief Mark D'Ambrogi reported on the department's response time, the number of personnel, including volunteers, apparatus, grants, and the Placer County Chipper Program within the City of Auburn. Council questions and discussion followed.

### **13. City Council Committee Reports**

Council Member Snyder reported on his use of pool vehicles to attend Mosquito Abatement District meetings in Lincoln. He advised that this is the time of year that protection from mosquitoes begins. He also reported on the Placer County Transportation Advisory Board, which was supportive of a half-cent tax measure.

Council Member Powers reported that she had attended the Traffic Committee meeting. She asked that Chief Harris provide the details of what guest speaker, Mr. Austin, said at the meeting regarding motorcycle exhaust systems. Ms. Powers also reported on the Endurance Capital Committee meeting is focusing on the 100 Mile Challenge.

Council Member Nesbitt reported on the Economic Development Commission, the Auburn Recreation District, and the Boys and Girls Club. He also reminded everyone of the upcoming March 11th and 12th event, the Best of Broadway, sponsored by the Boys and Girls Club. Lastly, he reported on the Greenprint Steering Committee meeting earlier in the month.

Mayor Holmes reported that he attended his first SACOG meeting and advised that many undertakings by the group. He reported that the Auburn Chamber of Commerce is gearing up to start a one-year celebration of its 100<sup>th</sup> year in existence. Holmes advised that the Air Pollution Control District is in the grant submittal period and urged city staff to think about applying.

## **COUNCIL BUSINESS**

### **14. Agreement for Conceptual Design of Monument Signs**

City Manager Robert Richardson introduced the item. He stated that the Economic Development Commission has been working on the sign program to implement throughout the city. One of the primary sites is the property over the Ophir Road on ramp. Caltrans has approved it for use by the city. The contract for the sign, as presented in the agenda packet, is with Michael Kent Murphy. Council Member Snyder has volunteered to head up the construction project in late spring.

Council questions and discussion followed.

By **RESOLUTION 06-23** adopt the agreement for conceptual design of one monument sign in Auburn. **MOTION: Powers/Hanley/Approved 5:0**



15. **Support of Federal Endangered Species Act**

Council Member Nesbitt introduced the item stating that the “TESRA,” The Threatened and Endangered Species Recovery Act, was brought to his attention by some members of the community. The concern was that it could compromise the existing Endangered Species Act. Therefore, he felt the council should review the item and at least send a letter to our United States Senators.

Council Member Snyder asked for the origin of the resolution. He was advised that it was a member of community involved with a wildlife organization who drafted the resolution. Snyder advised that for him to vote on this issue he would have to more information about TESRA.

City Manager Richardson advised that the bill is roughly ninety pages. At this time no unbiased legislative analysis available.

Council Member Hanley took exception to the final “whereas” on the draft resolution. He stated “the current Endangered Species Act has some perverse incentives built into it where only 1% of the, I guess, endangered species that actually recover; and I do not think it recognizes that only 90% of the endangered species are on private land.” Thusly, he explained that there are a lot of land issues and legal problems. He further stated that he did not know if TESRA was the right solution, but did feel that the current Endangered Species Act is not preserving species and not allowing owners to do what they can. Incentives are needed for private owners. Therefore, he could not support the act.

Council discussion followed.

By **MOTION** take no action on the adoption of a draft resolution supporting the existing language of the Federal Endangered Species Act. **MOTION: Snyder/Hanley/Approved by Voice**

**ADJOURNMENT**

Mayor Holmes adjourned the meeting at 8:25 p.m.

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J. M. Holmes, Mayor

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Joseph G. R. Labrie, City Clerk

Minutes transcribed by Anne M. Cooley, Deputy City Clerk.